

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15799 of the Dupont Park Church of Seventh-Day Adventists, pursuant to 11 DCMR 3108.1, for a special exception under Section 205 to increase the number of children and staff of a child development center from 20 to 172 children and five to 20 staff in an R-2 District at premises 3960 Alabama Avenue, S.E. (Square 5517, Parcel 201/129).

HEARING DATES: March 10 and May 12, 1993  
DECISION DATE: July 7, 1993

ORDER

The property which is the subject of this application is known as 3960 Alabama Avenue, S.E. (Square 5517, Parcel 201/129). It is located between Massachusetts Avenue and Pennsylvania Avenue, S.E. in the Fort Davis neighborhood of Ward 7. The property is zoned R-2.

The property is owned by the applicant, the Dupont Park Church of Seventh-Day Adventists. The applicant also owns parcel 201/215 which abuts the subject site Parcel 201/129. Both parcels are used for school purposes.

The R-2 District in which the site is located permits matter of right development of single-family detached and semi-detached dwelling units with a minimum lot area of 3,000 square feet, a minimum lot width of 30 feet, a maximum lot occupancy of 40 percent, and a maximum height limit of three stories/40 feet.

The subject lot contains 48,210 square feet in lot area. It has an average width of 200 feet. There is an existing two-story plus basement structure on the property which occupies 434.0 square feet of the lot. The applicant proposes to construct a new building adjacent to the existing building. The new building will occupy an additional 10,547.33 square feet of lot area for a total lot occupancy of 10,981.33 square feet (22.8 percent). With the new structure, a 26-foot rear yard will be provided and the side yards will be 20-feet and 21.5 feet wide. The proposed construction meets the area requirements of the Zoning Regulations for the R-2 District.

Currently, the applicant operates the Dupont Park Seventh-Day Adventist School which consists of both a private school and a child development center. Approximately 275 students are enrolled at the school. Of the total number of children, approximately 50 students are enrolled in the child development center and approximately 225 students attend the private school.

The applicant proposes to increase the number of children and staff at the child development center from 20 children and five staff to 172 children and 20 staff. A child development center is permitted in the R-2 District with special exception approval of the Board. Therefore, the applicant is seeking special exception relief under Title 11 of the District of Columbia Municipal Regulations (DCMR) Sections 3108.1 and 205. The applicant maintains that all requirements of the Zoning Regulations are met.

ISSUES AND ARGUMENTS:

1. Whether the center will be able to meet all applicable codes and licensing requirements?

The applicant stated that the center is designed to meet all applicable District of Columbia building codes under DCMR Title 12, D.C. Construction Codes Supplement of 1992, including: The 1990 Ed. of the BOCA National Building, Plumbing, Mechanical, Fire Prevention, and Energy Codes and the 1990 Ed. of the NFPA National Electric Code.

The child development center is also designed to the standards required by Title 29 DCMR, Public Welfare, Chapter 23, Child Development Centers and the Americans with Disabilities Act (ADA).

With regard to the physical structure, the applicant submitted a description of the programmatic requirements for the school and its supporting functionary spaces. The applicant stated that each classroom module has direct access to the interior, and may or may not be used as an individual classroom.

Toilet and lavatory facilities are provided at the rate of one for every 15 persons as required by the current edition of the WSSC plumbing code not per 29 DCMR, Public Welfare Section 329. Two drinking fountains are provided for handicapped patrons as required by ADA and ANSI codes, and each room's lavatory will be provided with a faucet-mounted bubbler.

Centrally located handicapped toilets are provided for use by the disabled. Graphics will be provided at toilet rooms to direct the disabled to the appropriate facility.

Exterior walls are proposed to be a noncombustible combination of eight-inch block and a brick-and-block construction. Roof areas are proposed to be a wood truss construction with several areas in the truss spaces utilized for horizontal mechanical (HVAC) units.

Natural ventilation is provided by operable windows and doors in each classroom. The applicant submitted the project's building plans to the Department of Consumer and Regulatory Affairs (DCRA), Service Facility Regulation Administration for review. By memorandum received by the Board on February 19, 1993, the department indicated that the architectural plans for the proposed building meet the requirements of Title 29 of the District of Columbia Municipal Regulations, Chapter 3, Public Welfare.

In addition to meeting the structural requirements, the applicant stated that the proposed program for the child development center will follow and adhere to the prescribed regulations established by DCRA in 29 DCMR. The applicant stated that instructional personnel will hold degrees and certification to teach. Upon approval of the proposed center by this Board, the director and other personnel will be hired in accordance with prescribed qualifications for the positions.

2. Whether the location and design of the facility will create objectionable traffic conditions?

One of the concerns expressed by area residents was that Alabama Avenue is a very heavily used artery, especially in the morning. When the number of people coming into the area is two and three times what currently exists, there will be a substantial increase in traffic. Area residents also stated that many Maryland and Virginia license plates have been seen on cars coming to the church. They are concerned that the proposed day care center will serve many Maryland and Virginia residents rather than those living in the community.

The applicant maintains that the proposed facility will not create objectionable traffic impacts. The applicant requested that a traffic engineer review the proposed site plan for impacts of the school on local road conditions and intersections, as well as the affect of on-site vehicular storage during peak morning ingress and evening egress.

By report dated June 21, 1993, the president of Traffic Group, Inc. (TTGI) stated that the firm reviewed the site plan for the child development center and based upon information provided, the facility is to accommodate 172 children. It is estimated that 60 percent of those children will arrive by car and 40 percent will arrive by bus. Based upon the Institute of Transportation Engineers Trip Generation Study (Fifth Edition), the day care center will generate approximately 85 evening peak hour vehicles with the assumption that only 60 percent of the students will arrive by car.

The traffic report stated that the 85 vehicles in and out of the site in the peak one hour is equivalent to one additional car

(on the average) every 42 seconds, which is slightly more than one car a minute. In the opinion of TTGI, this level of automobile activity can be handled more than satisfactorily with the driveway that is proposed for the day care center. This driveway is approximately 400 feet in length when considering the inbound and outbound circuit. The 400-foot driveway circuit can store 15 to 20 vehicles entering or leaving at any one time. This is more than sufficient room to store the number of vehicles that are proposed.

Given that only an anticipated 60 percent of the parents will use automobiles for transportation to the site, and given that the site will generate approximately one vehicle per minute to the facility during the morning and evening one-hour peak period. The traffic engineer, is of the opinion that the additional cars (assuming they are all new trips to the road system), will not create an adverse affect on traffic conditions.

One supporting neighbor who resides at 1569 41st Street testified that there have been no problems with traffic backing up near the site.

With regard to the residency of the children, the applicant stated that enrollment has yet to be solicited for the child development center. However, the applicant expects enrollment demographics that are similar to those of the school operated by the applicant on the adjoining parcel. That school's current enrollment is 265 students. The demographic breakdown for kindergarten through tenth grade is as follows:

District of Columbia	90
Maryland	165
Virginia	10

Of the 165 Maryland students, 74 come from neighboring areas such as Suitland, Capitol Heights, Forestville and Temple Hills.

The applicant stated that their church is similar to many metropolitan churches that operate a school. Parishioners live in all corridors of the city, and children travel from various areas to attend the church school. Students are transported by public transportation or chartered bus (40 percent) and private vehicles (60 percent).

The applicant stated that it has plans for recruiting children from within the Dupont Park neighborhood and community. Printed information about the child development center will be circulated throughout the neighborhood and affected community. Some personal contacts also will be made. Additionally, the applicant offers a summer camp program each year, and experience has shown that some of the children who attend the camp will return in the fall.

3. Whether the location and design of the center will create unsafe conditions for picking up and dropping off children?

The applicant stated that the design of the center offers an internal, one-way, drop-off loop. Children attending the center will arrive by bus or car and will be transported to the front door of the facility. The passenger side of the car faces the entrance allowing direct access to the center without crossing a driveway or parking area. Traffic into and out of the facility has sufficient stacking space for up to nine vehicles on site at any one time, to prevent waiting or stacking activities from occurring in the roadway (Alabama Avenue). The applicant pointed out that parking areas are removed from the general site circulation system.

The applicant is of the view that the on-site circulation system for passenger drop-off minimizes conflicts between pedestrians and automobiles, thereby minimizing the potential for accidents.

By report dated March 5, 1993, the Office of Planning (OP) recommended conditional approval of the application. With regard to pick-up and drop-off, OP noted that the facility would be designed with an entrance-way off of Alabama Avenue. A portion of the proposed circular driveway would be designated as a drop-off and pick-up area. Vehicular and pedestrian traffic will traverse the site, particularly during peak traffic hours, and buses will park, pick-up and drop-off students at the site. In recommending approval of the application, OP also recommended that the Board's order include the condition that all drop-off and pick-up of children shall occur on-site only.

An opposing neighbor residing at 4011 Massachusetts Avenue, S.E. testified that Alabama Avenue is a heavily travelled thoroughfare. Not only has the number of vehicles increased, but the speed at which they travel has increased as well. He noted that there is no sign indicating that this area is a school zone or residential area and he is concerned about the safety of children going to and away from the school in this area. This witness also expressed a concern about the ability to enter and exit the site in a safe manner.

Another witness who resides at 4000 Alabama Avenue, S.E. testified that the parents of the Kindergarten school children walk their children to the door of the school. She was pleased with this practice.

4. Whether the applicant will provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees and visitors?

The applicant testified that the parking provided is based on the projected staffing of the facility with 16 teaching positions and four additional, undesignated positions, for a total of 20 employees. The Zoning Regulations require a total of five spaces - one for every four employees. The applicant stated that a total of 13 off-street parking spaces will be provided, five for staff and eight for visitors and guests. One of those spaces will be a space for handicapped persons.

The Office of Planning noted the proposal to provide 13 parking spaces and stated that the proposed project would meet and exceed the parking requirement under the Zoning Regulations.

The opposing witness who resides at 4000 Alabama Avenue testified that those who attend the church park on private property and block the cars of area residents.

5. Whether the child development center, including outdoor play space, will be located and designed so that there will be no objectionable impacts on adjacent or nearby properties due to noise, activity, or visual or other objectionable conditions?

The applicant stated that the center has been designed so that play areas face an existing school yard, the street frontage on Alabama Avenue and the existing park land to the northwest of the property. This orientation shields play areas from the existing residential properties to the northeast of the site.

The Office of Planning stated that the proposed building would be constructed at the rear of the site to a height of approximately 20 feet. The height of the new building would be within the 40-foot limit of the R-2 District. Therefore, the neighboring properties should not experience any negative impacts because of the height of the proposed addition.

OP stated that the Board established a private school (kindergarten) at the site in 1980; therefore, the use of the site as a school is well established. The school operates on weekdays and during daytime hours when many neighboring residents are away from their homes. OP noted that the site is self-contained and that all school activities are and would continue to be conducted on the premises. However, OP recommended that the applicant provide landscaping along the eastern property line to mitigate any potential negative visual and noise impacts.

On June 23, 1993, the applicant submitted into the record a drawing illustrating the location of the facility, the playground areas and proposed landscaping for screening of the site.

6. Whether the special treatment as required by the Board has been provided by the applicant?

The applicant stated that at the request of the Board, the site plan includes additional landscape screening along the northeast property line where the project abuts a public alley serving residential properties to the north and east of the site. The plant material is evergreen, *Tsuga Caroliniana*, (Carolina Hemlock), to be planted ten feet on center, with trees that are a minimum of six feet tall. This species of hemlock is used often as hedge type plantings, maturing to 30 feet in height.

7. Whether off-site play areas are located so as not to endanger the individuals in attendance at the center in travelling between the play area and the center itself?

The applicant stated that all play area are located on-site.

8. Whether the cumulative effect of the proposed child development center and other such centers in the square or within 1,000 feet of the site will have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors?

The applicant stated that no other child development centers are located within 1,000 feet of the site.

The Office of Planning stated that it is not aware of any other child development centers that are located within the square or within 1,000 feet of the site.

9. Whether the proper referrals were made in the subject application?

The Board referred the application to the Office of Planning and the D.C. Department of Public Works. The Office of Planning referred the application to the Department of Human Services, the Fire Department and the Metropolitan Police Department.

10. Whether the proposed use will tend to affect adversely the use of neighboring property?

Advisory Neighborhood Commission (ANC) 7B, by report dated May 9, 1993, expressed opposition to the application. The report delineated the concerns of area residents. Those issues related to adverse impact are as follows:

- The excavation of soil for construction of the addition could cause structural problems in homes adjacent to the site;
- The project would decrease the value of property in the area;

- The use would increase the already heavy flow of traffic along Alabama Avenue;
- The increase in the student body would bring about more trash/litter in an area that has had problems with the school maintaining its grounds and picking up debris discarded by its students.

The Chairman of ANC-7B testified that the citizens are very concerned about the ongoing relationship between the applicant and the community.

The neighbor who resides at 4000 Alabama Avenue, in the house immediately adjacent to the site, testified at the hearing in opposition to the application. She stated that she represents the views of many residents who live in the area immediately surrounding the school and oppose the application for reasons similar to those expressed by the ANC.

The opposing witness expressed a concern that construction on the site will cause structural damage to her property and that of nearby residents. She stated that now the houses shake when large trucks or buses go by. She is also concerned that machinery to be used at the site will be heavy and will damage Alabama Avenue. She questioned who will bear the cost of repairs.

The opposing witness testified that area residents are concerned about the poor relationship that the church has with the community. She stated that there have been problems with the applicant such as the failure to maintain the property, the use of residents' property as playground space by Seventh Day Adventist students, vandalism of neighbors' yards by students, and church-goers blocking residents' parking spaces.

The witness testified that efforts to contact the church officials about resolving these problems have been fruitless. Consequently, area residents are reluctant to trust that the applicant will keep promises related to the operation of the proposed use.

The applicant responded to issues raised by opponents to the application.

#### Community Liaison:

The applicant stated that the pastor of the church will serve as the point of contact for residents with concerns. The applicant provided a telephone number for area residents to call and stated that concerns or complaints will be addressed by the appropriate church officers having responsibility for the subject matter of the concern or complaint. The applicant noted that all issues may not



be resolved immediately, but will be addressed in an appropriate time frame according to the type of action necessary. The applicant stated that it will try very hard to be a good neighbor.

Grounds Maintenance:

The applicant stated that for approximately two years, the school has employed a regular groundskeeper whose responsibilities include regular maintenance of the lawn and keeping surrounding areas free of debris. As the new landscape plans are incorporated, groundskeeping operations will be monitored to ensure proper maintenance.

Vandalism:

The applicant stated that the vandalism mentioned in the opponent's statement refers to a basketball hoop on a neighbor's property that was broken down. It has since been replaced by the church.

The applicant is of the view that the project will not adversely affect the use of neighboring property.

The Office of Planning was of the opinion that by increasing the school's enrollment by 122 children, the daytime noise levels and the amount of vehicular trips to the site will be increased. To alleviate these impacts, OP recommended that the applicant place landscaping along the eastern property line and devise an appropriate pick-up/drop-off plan. These suggestions were incorporated into the applicant's plan as discussed earlier in this order.

OP recommended that the following conditions accompany approval of the application:

- a. The operation of the child development center shall be limited to the Dupont Park Church of Seventh-Day Adventist.
- b. The number of students attending the child development center shall not exceed 172 children on a daily basis.
- c. The number of staff shall not exceed 20 full and part-time employees.
- d. The hours of operation shall not exceed 8:00 a.m. to 6:30 p.m., Monday through Friday.
- e. The landscaping and grounds of the child development center shall be maintained in good condition at all times.

11. Whether approval of the application will impair the intent, purpose and integrity of the zone plan?

The opposing neighbor who resides at 4000 Alabama Avenue, S.E. testified that the property is zoned for residential use and a residential use should be made of the site.

She stated that the applicant is constructing a building about 20 times the size of the existing structure. She stated that the concrete slab building would be an eyesore to residents directly affected by it, however, she noted that the applicant has agreed to a brick front.

One of the issues raised by citizens through ANC-7B was that the scale of the structure is too large, therefore, the building will not conform with other buildings in the area.

The Office of Planning report indicates that the relief requested is a special exception and that the proposal meets all of the area requirements of the Zoning Regulations including lot area, lot occupancy, side yards, rear yard, height and the like.

**FINDINGS OF FACT:**

Based on the evidence of record, the Board finds as follows:

1. The application will meet all code and licensing requirements.
2. The location and design of the proposed child development center will not create objectionable traffic conditions in the area because of the driveway circulation system and the plan to transport some of the children by bus.
3. The applicant plans to recruit children from the immediate community and other parts of the District of Columbia. However, the extent to which the facility is used by Maryland and Virginia residents is not a matter within the purview of the Board's authority.
4. The 13 parking spaces (including one handicapped space) proposed by the applicant will be sufficient to meet the reasonable needs of teachers, employees and visitors.
5. The evergreen trees to be placed along the eastern side of the lot will buffer nearby residents from any noise, visual or other objectionable conditions associated with the facility.

6. The facility and the play area designated on the applicant's plans are located so as not to create any objectionable impacts on adjacent or nearby properties due to noise, activity or other objectionable condition.
7. There is no other child development center located in the same square or within 1,000 feet of the site.
8. The application was properly referred to the government agencies designated in the Zoning Regulations.
9. Whether machinery will damage Alabama Avenue or construction will damage nearby residential structures are not issues within the Board's authority. The Board finds that these issues would be more properly handled by the Building and Land Regulations Administration of DCRA.
10. Inadequate evidence was introduced to demonstrate that the proposed use will decrease the value of property in the area.
11. The applicant has hired an attendant to maintain the grounds and keep the subject property free from trash, litter and debris.
12. The applicant has established a liaison system to address and resolve issues and concerns raised by neighbors.
13. The applicant does not allow its students to vandalize neighboring properties. However, if its students are responsible for damage to neighboring properties while in the school's care, the school will make repairs.
14. The Zoning Regulations allow the proposed use as a special exception in the R-4 District.

**CONCLUSIONS OF LAW AND OPINION:**

Based on the evidence of record, the Board concludes that the applicant is seeking a special exception to increase the number of children and staff of a child development center in an R-2 District.

The granting of a special exception requires a showing through substantial evidence of record that granting the relief will be in harmony with the general purpose and intent of the Zoning Regulations and Map and that it will not adversely affect the use of neighboring property in accordance with the Regulations and Maps. The applicant must also meet the requirements of 11 DCMR 205 regulating child development centers.

The Board concludes that the applicant has met this burden of proof. The Board concludes that the applicant has addressed each of the provisions of Section 205 and, based on the evidence of record, the Board concludes that the applicant meets these requirements.

With regard to 11 DCMR 3108.1, the Board concludes that granting the application will not tend to affect adversely the use of neighboring property. The Board is of the opinion that the adverse impact issues raised by the ANC and opponents were adequately addressed by the applicant and the Board as indicated in the findings of fact.

The Board concludes that the child development center use is allowed as a special exception and is pre-deemed compatible with uses in the R-2 District. Therefore, the Board concludes that the application can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map.

The Board concludes that it has accorded ANC-7D the "great weight" to which it is entitled.

In light of the foregoing, the Board hereby **ORDERS** that the application is **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

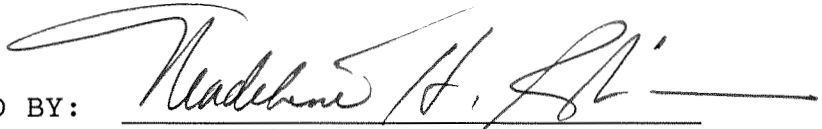
1. Approval shall be for a period of **FIVE YEARS**.
2. The number of employees shall not exceed 20. The number of children shall not exceed 172.
3. The hours of operation shall be between 7:00 a.m. and 6:00 p.m., Monday through Friday.
4. Landscaping and the location of the play area shall be as shown on the revised site plan marked as Exhibit No. 36A of the record.
5. The number and location of parking spaces shall be as shown on the revised site plan marked as Exhibit No. 36A of the record.

6. The applicant shall establish a community liaison program in order to address concerns of nearby property owners.
7. The applicant shall continue to maintain the grounds of the subject site free of refuse and debris, in a neat and orderly manner, and in a healthy growing condition.

VOTE: 4-0 (Maybelle Taylor Bennett, Angel F. Clarens and Paula L. Jewell to grant; Carrie L. Thornhill to grant by absentee vote; Sheri M. Pruitt not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
MADELIENE H. ROBINSON  
Director

FINAL DATE OF ORDER: NOV 9 1994

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15799

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 9 1994 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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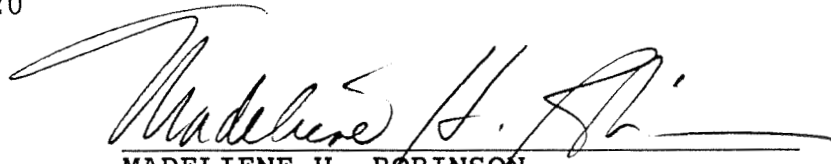
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MADELIENE H. ROBINSON  
Director

DATE: NOV 9 1994

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